

JAN 17 2013

S.B. NO. 102

A BILL FOR AN ACT

RELATING TO THE ELDERLY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 412:3-114.5, Hawaii Revised Statutes,
is amended to read as follows:

**"[+]§412:3-114.5[+] Mandatory reporting of suspected
financial abuse of an elder. (a) A financial institution shall
report suspected financial abuse that is directed towards,
targets, or is committed against an elder to the ~~[department of
human services]~~ appropriate county police department if:**

(1) In connection with providing financial services to the
elder, the officer or employee of a financial
institution:

(A) Has direct contact with the elder; or

(B) Reviews or approves the elder's financial
documents, records, or transactions; and

(2) The officer or employee, within the scope of
employment or professional practice:

(A) Observes or has knowledge of an incident the
officer or employee believes in good faith
appears to be financial abuse; or



1 (B) In the case of officers or employers who do not
2 have direct contact with the elder, has a good
3 faith suspicion that financial abuse has occurred
4 or may be occurring, based solely on the
5 information present at the time of reviewing or
6 approving the document, record, or transaction.

7 (b) Suspected financial abuse shall be reported
8 [immediately] to the [department] appropriate county police
9 department immediately by telephone and followed by a written
10 report sent [within five business days.] via electronic mail
11 immediately thereafter or as soon as practicable.

12 ~~[(c) Upon notification by a financial institution of~~
13 ~~suspected financial abuse, the department, in a timely manner,~~
14 ~~shall determine whether the department has jurisdiction over the~~
15 ~~elder involved; and if not, shall notify the financial~~
16 ~~institution, which shall then notify the proper local law~~
17 ~~enforcement agency immediately by telephone and forward the~~
18 ~~written report to the agency within three business days. A~~
19 ~~financial institution shall not be liable for failing to report~~
20 ~~suspected financial abuse to a local law enforcement agency in~~
21 ~~cases in which the department fails to notify the institution of~~
22 ~~the department's lack of jurisdiction.~~



1 ~~(d)~~ (c) Notwithstanding any other state law to the
2 contrary, including but not limited to laws concerning
3 confidentiality, any person, including the financial
4 institution, who:

5 (1) Participates in the making of a report pursuant to
6 this section; and

7 (2) Believes, in good faith, that the action is warranted
8 by facts known to that person,

9 shall have immunity from any liability, civil or criminal, that
10 might be otherwise incurred or imposed by or as a result of the
11 making of the report. Any person making the report shall have
12 the same immunity with respect to participation in any judicial
13 proceeding resulting from the report.

14 ~~[(e)]~~ (d) For the purposes of this section:

15 ~~["Department" means the department of human services.]~~

16 "Elder" means a person who is sixty-two years of age or
17 older.

18 "Financial abuse" means financial abuse or economic
19 exploitation."

20 SECTION 2. Each Hawaii financial institution as defined
21 under section 412:1-109, Hawaii Revised Statutes, that is
22 subject to article 3, chapter 412, Hawaii Revised Statutes,



1 shall develop and implement a training program for all of its
2 employees relating to the mandatory reporting requirements under
3 section 412:3-114.5, Hawaii Revised Statutes, of suspected
4 financial abuse of an elderly.

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval.
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Report Title:

Financial Abuse of an Elder; Mandatory Reporting; Training;
Financial Institutions; Kupuna Caucus

Description:

Requires a financial institution to report suspected financial abuse against an elder to the appropriate county police department, rather than the department of human services, under certain conditions immediately by telephone and then followed by a written report sent via electronic mail. Repeals the department of human services as the contact agency responsible for determining whether the department has jurisdiction over the elder involved. Requires all financial institutions to develop and implement a training program for their employees regarding the reporting requirements for suspected financial abuse of an elderly.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

